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EXAMINER
HUERTA, ALEXANDER Q

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/643,111	PATEL ET AL.
	Examiner	**Art Unit**	
	Alexander Q. Huerta	2427	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 August 2009*.

2a)☒ This action is **FINAL**.　　　　2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-63 and 66-73* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-63 and 66-73* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *05 December 2003* is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

On page 17 of the Applicants Response, Applicants argue that Ellis nor Plourde show accessing the second program source in accordance with the first application.

The Examiner respectfully disagrees because Ellis teaches that both normal broadcast viewing (first application) and NPVR (second application) are accessed using the television program guide ([0060], [0098], [0145], Figs. 10, 11a, 18a-d). Thus, the second program source (remote media server) is accessed in accordance with the first application.

Also on page 17 of the Applicants Response, Applicants argue that Ellis nor Plourde teach manipulating a presentation of the stored programming content in accordance with the first application in response to a signal indicating a desired manipulation of a presentation of material from the second program source.

The Examiner respectfully disagrees because as argued above Ellis teaches viewing normal broadcast television and using a NPVR to view recorded programs using the program guide. The NPVR application allows the user to use trick play commands such as fast-forward, rewind, or pause using the remote control. ([0162]-[0165]). Thus, Ellis teaches manipulating a presentation of the stored programming content in accordance with the first application in response to a signal indicating a desired manipulation of a presentation of material from the second program source.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4-16, 18-29, 31-34, 37-60, 66-73 are rejected under 35 U.S.C. 103(a)

as being unpatentable over Ellis et al. (US Pub. **2007/0199030**), in view of Plourde, Jr.

(US Pat. **7,380,029**), and in further view of Aspromonte et al. (WO 00/54506), herein

after referenced as Ellis, Plourde, and Aspromonte, respectively.

Regarding **claim 1**, Ellis discloses an "apparatus for receiving programming

content" (Fig. 2a El. 22). The apparatus (22) comprising:

"a memory for providing a first software application and a second software

application ([0114], Fig. 9 El. 63)...the first application being used to realize at least a

first programming service for providing first programming content in accordance with a

broadcast schedule ([0060], [0098], i.e. normal television viewing), the second

application being used to realize at least a second programming service for providing

second programming content after broadcast thereof, the second programming content

being recorded during the broadcast thereof at a location remote from the apparatus

(remote media servers)" ([0075], [0133], [0145], Figs. 18a-d, i.e. Ellis teaches that users

may record programs during the broadcast thereof at a remote media server and can

access recorded programs through a program menu listing); and

"a device (Fig. 7 El. 28) for receiving information concerning a change from a first program source afforded the first programming service to a second program source afforded the second programming service ([0098], [0124], [0125], i.e. the user accesses the program guide to either view broadcasted programming or view recorded programs. the selected service becomes active depending on which service the user chooses)... receptive to a request for obtaining a selected portion of the second programming content." ([0180], Fig. 25b, i.e. the user can play a specific program segment)

Ellis fails to explicitly disclose that "the first and second applications being separately registered in a registry of software applications in the apparatus... the second application having a first, activated state and a second, background state running as a background process... wherein, in response to the change the state of the second application is changed from the second, background state to the first, activated state to become receptive..."

Plourde discloses that "the first (WatchTV 362) and second (PVR 377) software applications being separately registered in a registry of applications in the apparatus." (Col. 15 lines 29-35, Fig. 3A, i.e. the WatchTV application 362 and the PVR application 377 are separately registered in a registry of applications). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of separately registering the WatchTV and PVR applications in a registry of applications as taught by Plourde, to improve the remote recording system of Ellis for the predictable result of enabling the processing unit to easily distinguish and execute the various stored applications.

The combination still fails to disclose that "the second application having a first, activated state and a second, background state running as a background process... wherein, in response to the change the state of the second application is changed from the second, background state to the first, activated state to become receptive..."

Aspromonte discloses that "the second application having a first, activated state and a second, background state running as a background process... wherein, in response to the change the state of the second application is changed from the second, background state to the first, activated state to become receptive..." (Pg. 6 line 24-Pg. 7 line 4, Pg. 14 line 16-Pg.15 line 4, Fig. 4, i.e. Aspromonte teaches the technique of using foreground and background applications. If a request is made to an application that is not the foreground application, then a deactivation request is issued for the foreground application. The requesting application becomes the foreground application and is now active). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of activating a background application in response to a change of state as taught by Aspromonte, to improve the remote recording system of Ellis for the predictable result of providing foreground and background processes to ease the processing burden instead of concurrently running multiple foreground applications consuming processing power even when they are not being used.

Regarding **claim 4**, the combination as disclosed above fails to explicitly disclose "a state of the first application is changed from a third, activated state to a fourth, off state when the state of the second application is changed from the second, background state to the first, activated state."

Aspromonte discloses "a state of the first application is changed from a third, activated state to a fourth, off state when the state of the second application is changed from the second, background state to the first, activated state." (Pg. 6 line 24-Pg. 7 line 4, Pg. 14 line 16-Pg.15 line 4, Fig. 4, i.e. the foreground application deactivates when a request for a background application is issued). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of activating a background application in response to a change of state as taught by Aspromonte, to improve the remote recording system of Ellis for the predictable result of providing foreground and background processes to ease the processing burden instead of concurrently running multiple foreground applications consuming processing power even when they are not being used.

Regarding **claim 5**, Ellis discloses that "the second program source is accessed in accordance with the second application..." ([0125], [0126]).

The combination fails to disclose "...when the second application is in the first, activated state."

Aspromonte teaches "...when the second application is in the first, activated state." (Pg. 6 line 24-Pg. 7 line 4, Pg. 14 line 16-Pg.15 line 4, Fig. 4). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of activating a background application in response to a change of state as taught by Aspromonte, to improve the remote recording system of Ellis for the predictable result of providing foreground and background processes to ease the processing burden instead of

concurrently running multiple foreground applications consuming processing power

even when they are not being used.

Regarding **claim 6**, Ellis discloses "a service request is generated based on the

information, the service request including an identifier of the second program source"

[0157].

Regarding **claim 7**, Ellis discloses that "the second application monitors for the

identifier in the service request…" ([0156], i.e. the remote media server 24 responds to

playback requests).

The combination fails to disclose "…while the second application is in the

second, background state."

Aspromonte teaches "…while the second application is in the second,

background state." (Pg. 6 line 24-Pg. 7 line 4, Pg. 8 lines 8-12, Pg. 14 line 16-Pg.15 line

4, Fig. 4, i.e. the background applications wait for a predetermined event to occur before

becoming the active application). Thus, it would have been obvious to one of ordinary

skill in the art to apply the technique of activating a background application in response

to a change of state as taught by Aspromonte, to improve the remote recording system

of Ellis for the predictable result of providing foreground and background processes to

ease the processing burden instead of concurrently running multiple foreground

applications consuming processing power even when they are not being used.

Regarding **claim 8**, the combination as disclosed above fails to discloses that

"the second application self-activates from the second, background state to the first,

activated state when the identifier is detected"

Aspromonte teaches that "the second application self-activates from the second, background state to the first, activated state when the identifier is detected" (Pg. 6 line 24-Pg. 7 line 4, Pg. 8 lines 8-12, Pg. 14 line 16-Pg.15 line 4, Fig. 4, i.e. the background applications wait for a predetermined event to occur before becoming the active application). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of activating a background application in response to a change of state as taught by Aspromonte, to improve the remote recording system of Ellis for the predictable result of providing foreground and background processes to ease the processing burden instead of concurrently running multiple foreground applications consuming processing power even when they are not being used.

Regarding **claim 9**, the combination as disclosed above fails to disclose that "the second application causes a state of the first application to be changed from a third, activated state to a fourth, off state."

Aspromonte teaches "the second application causes a state of the first application to be changed from a third, activated state to a fourth, off state." (Pg. 6 line 24-Pg. 7 line 4, Pg. 14 line 16-Pg.15 line 4, Fig. 4, i.e. the foreground application deactivates when a request for a background application is issued). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of activating a background application in response to a change of state as taught by Aspromonte, to improve the remote recording system of Ellis for the predictable result of providing foreground and background processes to ease the processing burden instead of

concurrently running multiple foreground applications consuming processing power

even when they are not being used.

Regarding **claim 10**, Ellis discloses that "the second program source is accessed

in accordance with the first application..." ([0124], [0125], [0157], i.e. both normal

television view and recorded programs are accessed via the program guide).

The combination as disclosed above fails to disclose "[changing] the state of the

first application is changed to the fourth, off state."

Apromonte teaches "[changing] the state of the first application is changed to the

fourth, off state." (Pg. 6 line 24-Pg. 7 line 4, Pg. 14 line 16-Pg.15 line 4, Fig. 4, i.e. the

foreground application deactivates when a request for a background application is

issued). Thus, it would have been obvious to one of ordinary skill in the art to apply the

technique of activating a background application in response to a change of state as

taught by Aspromonte, to improve the remote recording system of Ellis for the

predictable result of providing foreground and background processes to ease the

processing burden instead of concurrently running multiple foreground applications

consuming processing power even when they are not being used.

Regarding **claim 11**, Ellis discloses that "the second application is also used to

realize a manipulation of a presentation of the second programming content..." [0164].

Ellis fails to explicitly disclose a "first active state."

Aspormonte teaches "first active state." (Pg. 6 line 24-Pg. 7 line 4, Pg. 8 lines 8-

12, Pg. 14 line 16-Pg.15 line 4, Fig. 4, i.e. the background applications wait for a

predetermined event to occur before becoming the active application). Thus, it would

have been obvious to one of ordinary skill in the art to apply the technique of activating

a background application in response to a change of state as taught by Aspromonte, to

improve the remote recording system of Ellis for the predictable result of providing

foreground and background processes to ease the processing burden instead of

concurrently running multiple foreground applications consuming processing power

even when they are not being used.

Regarding **claim 12**, Ellis discloses that "the manipulation includes a selected

one of rewinding, pausing, and fast-forwarding" [0164].

Regarding **claim 13**, Ellis discloses that "the second application provides a user

interface for selecting the selected portion of the second programming content..."

([0125], [0126]).

Ellis fails to explicitly disclose a "first active state."

Aspormonte teaches "first active state." (Pg. 6 line 24-Pg. 7 line 4, Pg. 8 lines 8-

12, Pg. 14 line 16-Pg.15 line 4, Fig. 4, i.e. the background applications wait for a

predetermined event to occur before becoming the active application). Thus, it would

have been obvious to one of ordinary skill in the art to apply the technique of activating

a background application in response to a change of state as taught by Aspromonte, to

improve the remote recording system of Ellis for the predictable result of providing

foreground and background processes to ease the processing burden instead of

concurrently running multiple foreground applications consuming processing power

even when they are not being used.

Regarding **claim 14**, Ellis discloses that "the selected portion was broadcast within a predetermined period in the past" [0125].

Regarding **claim 15**, Ellis discloses that "in response to the request, the selected portion is obtained from the remote location through a communications network..." [0157].

Ellis fails to explicitly disclose a "first active state."

Aspormonte teaches "first active state." (Pg. 6 line 24-Pg. 7 line 4, Pg. 8 lines 8-12, Pg. 14 line 16-Pg.15 line 4, Fig. 4, i.e. the background applications wait for a predetermined event to occur before becoming the active application). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of activating a background application in response to a change of state as taught by Aspromonte, to improve the remote recording system of Ellis for the predictable result of providing foreground and background processes to ease the processing burden instead of concurrently running multiple foreground applications consuming processing power even when they are not being used.

Regarding **claim 16**, Ellis discloses that "the communication network includes a broadband network" [0065].

Regarding **claim 18**, Ellis discloses "a set-top terminal" [Fig. 7 El. 28].

Regarding **claim 19**, Ellis discloses an "apparatus for receiving programming content the apparatus to be coupled to a display device at a user location" (Fig. 9 El. 22. 36). The apparatus comprising:

"a memory for providing first and second software applications ([0114], Fig. 9 El.

63)..., the first application being used to realize at least a first programming service for

providing first programming content in accordance with a broadcast schedule [0060],

the second application being used to realize at least a second programming service for

providing second programming content after broadcast thereof, the second

programming content being recorded during the broadcast thereof at a location remote

from the apparatus..." ([0075], [0133], [0145], Figs. 18a-d, i.e. Ellis teaches that users

may record programs during the broadcast thereof at a remote media server and can

access recorded programs through a program menu listing),

"storage for storing received programming content" (Fig. 9 El. 49);

"a server for presenting the stored programming content in accordance with the

first application" [Fig. 2a El. 24]; and

"a device [Fig. 7 El. 28] for receiving information concerning a change from a first

program source afforded the first programming service to a second program source

afforded the second programming service ([0098], [0124], [0125], i.e. the user accesses

the program guide to either view broadcasted programming or view recorded programs.

The selected service becomes active depending on which service the user chooses), in

response to the change the second application becomes receptive to a request for

obtaining a selected portion of the second programming content" ([0180], Fig. 25b, i.e.

the user can play a specific program segment).

Ellis fails to explicitly disclose that "the first and second software applications

being separately registered in a registry of software applications in the apparatus."

Plourde discloses that "the first (WatchTV 362) and second (PVR 377) software

applications being separately registered in a registry of software applications in the

apparatus." (Col. 15 lines 29-35, Fig. 3A, i.e. the WatchTV application 362 and the PVR

application 377 are separately registered in a registry of applications). Thus, it would

have been obvious to one of ordinary skill in the art to apply the technique of separately

registering the WatchTV and PVR applications in a registry of applications as taught by

Plourde, to improve the remote recording system of Ellis for the predictable result of

enabling the processing unit to easily distinguish and execute the various stored

applications.

The combination still fails to disclose that "the second application having a first,

activated state and a second, background state running as a background process…and

in response to the request, the state of the second application is changed to the second,

activated state to obtain the selected portion of the second programming content."

Aspromonte discloses that "the second application having a first, activated state

and a second, background state running as a background process…and in response to

the request, the state of the second application is changed to the second, activated

state …" (Pg. 6 line 24-Pg. 7 line 4, Pg. 14 line 16-Pg.15 line 4, Fig. 4, i.e. Aspromonte

teaches the technique of using foreground and background applications. If a request is

made to an application that is not the foreground application, then a deactivation

request is issued for the foreground application. The requesting application becomes

the foreground application and is now active). Thus, it would have been obvious to one

of ordinary skill in the art to apply the technique of activating a background application in

response to a change of state as taught by Aspromonte, to improve the remote recording system of Ellis for the predictable result of providing foreground and background processes to ease the processing burden instead of concurrently running multiple foreground applications consuming processing power even when they are not being used.

Regarding **claim 20**, Ellis discloses that "in response to the change, the second program source is accessed in accordance with the first application" ([0125]. [0126], i.e. both recorded and broadcasted programs are accessed through the program guide).

Regarding **claim 21**, Ellis discloses that "the storage stores the received programming content during broadcast thereof [0125], and at least before the request is received, the server manipulates a presentation of the stored programming content in accordance with the first application in response to a signal indicating a desired manipulation of a presentation of material from the second program source" (Fig. 25b, i.e. the user can rewind a program before playing a specific portion of the program).

Regarding **claim 22**, Ellis discloses that "the manipulation includes a selected one of rewinding, pausing and fast-forwarding" [0164].

Regarding **claim 23**, Ellis discloses that "after the request is received, a manipulation of a presentation of the selected portion of the second programming content is performed in accordance with the second application..." ([0163], [0164]).

The combination as disclosed above fails to disclose that "the second application is in the second, activated state."

Aspormonte teaches that "the second application is in the second, activated

state." (Pg. 6 line 24-Pg. 7 line 4, Pg. 8 lines 8-12, Pg. 14 line 16-Pg.15 line 4, Fig. 4).

Thus, it would have been obvious to one of ordinary skill in the art to apply the

technique of activating a background application as taught by Aspromonte, to improve

the remote recording system of Ellis for the predictable result of providing foreground

and background processes to ease the processing burden instead of concurrently

running multiple foreground applications consuming processing power even when they

are not being used.

Regarding **claim 24**, Ellis discloses that "the manipulation includes a selected

one of rewinding, pausing and fast-forwarding" [0164].

Regarding **claim 25**, Ellis discloses that "after the request is received, the

selected portion of the second programming content is obtained from the remote

location… and buffered in the storage (31), the server presenting the buffered content in

accordance with the first application" ([0096], [0102], [0157], i.e. the media server 25

may prefetch and pre-decode a suitable of data so that the video stream provided to the

user is uninterrupted).

The combination as disclosed above fails to disclose "the second application

while in the second, activated state"

Aspormonte teaches that "the second application while in the second, activated

state" (Pg. 6 line 24-Pg. 7 line 4, Pg. 8 lines 8-12, Pg. 14 line 16-Pg.15 line 4, Fig. 4).

Thus, it would have been obvious to one of ordinary skill in the art to apply the

technique of activating a background application as taught by Aspromonte, to improve

the remote recording system of Ellis for the predictable result of providing foreground

and background processes to ease the processing burden instead of concurrently

running multiple foreground applications consuming processing power even when they

are not being used.

Regarding **claim 26**, Ellis discloses that "the server manipulates a presentation

of the buffered content in accordance with the first application in response to a signal

indicating a desired manipulation of a presentation of the selected portion of the second

programming content" ([0096], [0164], [0165], [0180], i.e. the presentation changes

when the user, for example, rewinds or fast-forwards the program).

Regarding **claim 27**, Ellis discloses that "the manipulation includes a selected

one of rewinding, pausing and fast-forwarding" [0164].

Regarding **claim 28**, Ellis discloses that "the selected portion is obtained from the

remote location through a communications network" [0157].

Regarding **claim 29**, Ellis discloses that "the communications network includes a

broadband network" [0065].

Regarding **claim 31**, Ellis discloses that "the second application provides a user

interface for selecting the selected portion of the second programming content…"

([0125], [0126]).

The combination fails to disclose an "activated state."

Aspormonte teaches an "activated state." (Pg. 6 line 24-Pg. 7 line 4, Pg. 8 lines

8-12, Pg. 14 line 16-Pg.15 line 4, Fig. 4). Thus, it would have been obvious to one of

ordinary skill in the art to apply the technique of activating a background application in

response to a change of state as taught by Aspromonte, to improve the remote

recording system of Ellis for the predictable result of providing foreground and

background processes to ease the processing burden instead of concurrently running

multiple foreground applications consuming processing power even when they are not

being used.

Regarding **claim 32**, Ellis discloses that "the selected portion was broadcast

within a predetermined period in the past" [0125].

Regarding **claim 33**, Ellis discloses "a set-top terminal" [Fig. 7 El. 28].

Regarding **claims 34, 37-48**, claims 34, 37-48 are interpreted and thus rejected

for the reasons set forth above in the rejections of claims 1, 4-15, respectively. Claims

1, 4-15 describe an apparatus for receiving programming content and claims 34, 37-48

describe a method for use in an apparatus for receiving programming content. Thus

claims 34, 37-48 are rejected.

Regarding **claim 49**, claim 49 is interpreted and thus rejected for the reasons set

forth above in the rejection of claim 19. Claim 19 describes an apparatus for receiving

programming content and claim 49 describes a method for use in an apparatus for

receiving programming content. Thus claim 49 is rejected.

Regarding **claims 50-60**, claims 50-60 are interpreted and thus rejected for the

reasons set forth above in the rejection of claims 20-28, 31-32, respectively. Claims 20-

28, 31-32 describe an apparatus for receiving programming content and claims 50-60

describe a method for use in an apparatus for receiving programming content. Thus

claims 50-60 are rejected.

Regarding **claim 66**, Ellis discloses that "the first programming content (normal

TV viewing) provided in accordance with the first programming service is not

manipulable; and the second programming content (NPVR) provided in accordance with

the second programming service is manipulable." ([0075], [0098], [0162]-[0164], i.e.

during normal television viewing, the viewer is unable to use trick play functions.

However, once a program has been recorded by the remote media servers, then the

viewer is permitted to use trick play functions).

Regarding **claim 67**, Ellis discloses that "the second application causes

manipulation of the second programming content by requesting manipulated program

content from the remote location" ([0162]-[0164]).

Regarding **claim 68**, Ellis fails to explicitly disclose that "the registry is in the

memory."

Plourde discloses that "the registry is in the memory." (Col. 15 lines 29-35, Fig.

3A, i.e. applications are stored in flash memory and DRAM). Thus, it would have been

obvious to one of ordinary skill in the art to apply the technique of storing the registry in

memory as taught by Plourde, to improve the remote recording system of Ellis for the

predictable result of enabling the processing unit to easily distinguish and execute the

various stored applications.

Regarding **claim 69**, Ellis fails to explicitly disclose that "the registry is in the

memory."

Plourde discloses that "the registry is in the memory." (Col. 15 lines 29-35, Fig.

3A, i.e. applications are stored in flash memory and DRAM). Thus, it would have been

obvious to one of ordinary skill in the art to apply the technique of storing the registry in memory as taught by Plourde, to improve the remote recording system of Ellis for the predictable result of enabling the processing unit to easily distinguish and execute the various stored applications.

Regarding **claim 70**, Ellis discloses that "the first programming content (normal TV viewing) provided in accordance with the first programming service is not manipulable; and the second programming content (NPVR) provided in accordance with the second programming service is manipulable." ([0075], [0098], [0162]-[0164], i.e. during normal television viewing, the viewer is unable to use trick play functions. However, once a program has been recorded by the remote media servers, then the viewer is permitted to use trick play functions).

Regarding **claim 71**, Ellis discloses that "only the second application causes manipulation of the second programming content by requesting manipulated program content from the remote location." ([0162]-[0164]).

Regarding **claim 72**, Ellis discloses that "none of the first programming content (normal TV viewing) is manipulable, and all of the second programming content (NPVR) is manipulable." ([0075], [0098], [0162]-[0164], i.e. during normal television viewing, the viewer is unable to use trick play functions. However, once a program has been recorded by the remote media servers, then the viewer is permitted to use trick play functions)

Regarding **claim 73**, Ellis discloses that "only the second application causes manipulation of the second programming content." ([0162]-[0164]).

Claims **2-3, 35-36** are rejected under 35 U.S.C. 103(a) as being unpatentable

over Ellis in view of Plourde, Apromonte, and in further view of Goode (US Pub.

2004/0226044), herein after referenced as Goode.

Regarding **claim 2**, the combination as disclosed above fails to explicitly disclose

that "one or more tables are stored, which associate the second program source with

the second application".

Goode discloses that "one or more tables are stored, which associate the second

program source with the second application" ([0023], [0026], [0047], Figs. 1, 7, i.e. a

channel map is provided that distinguishes between broadcast channels and on-

demand channels). Thus, it would have been obvious to one of ordinary skill in the art to

apply the technique of including one or more tables to associate the second program

source with the second application as taught by Goode, to improve the remote

recording system of Ellis for the predictable result of separating on-demand channels

from broadcast channels so that content providers can concurrently offer both services

to the viewer.

Regarding **claim 3**, the combination as disclosed above fails to explicitly disclose

that "the one or more tables include a service table."

Goode discloses that "the one or more tables include a service table." ([0023],

[0026], [0047], Figs. 1, 7). Thus, it would have been obvious to one of ordinary skill in

the art to apply the technique of including a service table as taught by Goode, to

improve the remote recording system of Ellis for the predictable result of separating on-demand channels from broadcast channels so that content providers can concurrently offer both services to the viewer.

Regarding **claim 35**, claim 35 is interpreted and thus rejected for the reasons set forth above in the rejection of claim 2.

Regarding **claim 36**, claim 36 is interpreted and thus rejected for the reasons set forth above in the rejection of claim 3.

Claims 17, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Plourde, Aspromonte, and in further view of Plotnick et al. (US Pub. **2002/0178447**), herein after referenced as Plotnick.

Regarding **Claim 17**, the combination as disclosed above fails to disclose that "the broadband network includes a hybrid fiber coaxial (HFC) cable network".

Plotnick discloses "the broadband network includes a hybrid fiber coaxial (HFC) cable network" [0073]. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis by specifically providing the broadband network includes a hybrid fiber coaxial (HFC) cable network, as taught by Plotnick, so that fiber optic cable can be brought closer to the customer which provides them with a high bandwidth low noise medium.

Regarding **claim 30**, claim 30 is interpreted and thus rejected for the reasons set forth above in the rejection of claim 17. Claim 17 describes an apparatus for receiving

programming content and claim 30 also discloses an apparatus for receiving

programming content. Thus claim 30 is rejected.

        Claims 61-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Ellis in view of Plourde, Aspromonte, and in further view of Ellis (US Pub.

2004/0226042), herein after referenced as Ellis'042.

        Regarding **claim 61**, the combination as disclosed above fails to explicitly

disclose that "the first programming content is provided via one or more first channels;

and the second programming content is provided via one or more second channels

different from the one or more first channels".

        Ellis'042 discloses "the first programming content is provided via one or more first

channels; and the second programming content is provided via one or more second

channels different from the one or more first channels" ([0055], i.e. Ellis'042 teaches of

dedicated channels for TV viewing along with dedicated on-demand playback

channels). Thus, it would have been obvious to one of ordinary skill in the art to apply

the technique of providing separate channels for regular broadcast television and on-

demand television as taught by Ellis'042, to improve the remote recording system of

Ellis for the predictable result of adjusting channel bandwidth according to the user's

request, thereby providing a more flexible system for bandwidth management.

        Regarding **claim 62**, the combination as disclosed above fails to explicitly

disclose that "the second programming service is available only with respect to

programming content associated with the one or more second channels".

Ellis'042 discloses "the second programming service is available only with respect to programming content associated with the one or more second channels" ([0055], i.e. on-demand programming is available on the on-demand channel). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of providing the second programming service only with respect with the one or more second channels as taught by Ellis'042, to improve the remote recording system of Ellis for the predictable result of separating on-demand channels from broadcast channels so that content providers can concurrently offer both services to the viewer.

Regarding **claim 63**, the combination as disclosed above fails to explicitly disclose that "the change includes switching from one of the one or more first channels to one of the one or more second channels".

Ellis'042 discloses that "the change includes switching from one of the one or more first channels to one of the one or more second channels" ([0055], viewer can switch from watching broadcast television to on-demand). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of switching from one the first channels to one of the second channels as taught by Ellis'042, to improve the remote recording system of Ellis for the predictable result of separating on-demand channels from broadcast channels so that content providers can concurrently offer both services to the viewer.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Alexander Q. Huerta whose telephone number is (571)

270-3582. The examiner can normally be reached on M-F(Alternate Fridays Off) 7:30-

5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alexander Q Huerta
Examiner
Art Unit 2427

November 30, 2009

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427